

First Amendment (Spring 2024) - Syllabus

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Spring 2024
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Syllabus: <https://bit.ly/Spring2024FirstAmSyllabus>

Overview:

Welcome to First Amendment. This class will cover the Freedoms of Speech, Press, Association, Exercise of Religion, and the Establishment Clause.

There are two editions of the Casebook.
Constitutional Law: Cases in Context (4th Ed. 2022) - Hardcover
Constitutional Rights: Cases in Context (4th Ed. 2022) - Paperback

I will also assign cases from *An Introduction to Constitutional Law: 100+ Supreme Court Cases Everyone Should Know (2nd Ed. 2023)*. The supplement includes access to videos, which can be watched on CasebookConnect.com.

Examination:

During the exam period, I will administer an in-class final examination. We will hold a review session before the final exam.

The exam is completely open-book. You can use anything you wish, so long as that it was printed before the distribution of this exam. Obtaining any new information from anyone or anything after the exam is distributed is prohibited.

Past Exam:

- [Final Exam](#) (Spring 2024), [Memo](#), [Model Answer](#)
- [Final Exam](#) (Spring 2021), [Memo](#), [A+ Answer](#)
- [Sample Midterm](#) (Spring 2021), [Memo](#)
- [Final Exam](#) (Spring 2019), [Memo](#), [A+ Answer](#)

You can also review my old constitutional law exams, which will use a similar format:

- [Midterm \(Fall 2020\)](#), [Memo](#)

- [Final Exam \(Fall 2019\), A+ Answer, Memo](#)
- [Final Exam \(Summer 2019\), A+ Answer, Memo](#)
- [Final Exam \(Fall 2018\), A+ Answer, Memo](#)
- [Midterm \(Fall 2018\), A+ Answer, Memo](#)
- [Final Exam \(Spring 2018\), A+ Answer, Memo](#)
- [Midterm \(Spring 2018\), A+ Answer, Memo](#)
- [Final Exam \(Fall 2017\), A+ Answer](#)
- [Midterm \(Fall 2017\), A+ Answer](#)
- [Final Exam \(Spring 2017\), A+ Answer](#)
- [Midterm \(Spring 2017\), A+ Answer](#)
- [Final Exam \(Spring 2016\), A+ Answer](#)
- [Midterm \(Spring 2016\), A+ Answer](#)
- [Final Exam \(Fall 2015\), A+ Answer](#)
- [Midterm \(Fall 2015\), A+ Answer](#)
- [Final Exam \(Spring 2015\), A+ Answer](#)
- [Final Exam \(Spring 2014\), A+ Answer](#)

Attendance and Class Participation:

I will take attendance in class. I expect everyone to be prepared to participate in class. Please consult the [South Texas College of Law Student Handbook's](#) section on Attendance and Class Participation (pp. 12).

I will also use the iClicker Reef system to receive feedback from students. You can use the Clicker with your [smartphone](#) or in your [web browser](#). Please download the application and register an account before class begins. I will open up the attendance page a few minutes before class, and turn it off when I begin class. If you are not present when class begins, you will be marked absent.

Office Hours

I will hold office hours on Mondays before and after class, and at other times by appointment.

Interaction:

Outside of class, there will be several channels available to interact with me and your colleagues. First, you can reach me via email at FirstAmSpring2024@joshblackman.com . You can also view all the class videos by watching the [Spring 2024 playlist](#) or subscribing to the [YouTube channel](#). I have created playlists of the lectures from previous years.

- [First Amendment](#) (Spring 2021)

- [First Amendment](#) (Spring 2019)

You can view all of the class notes in this [Google Drive folder](#).

Schedule

The course calendar is available [here](#).

I will include two sets of page numbers. The first set is for the hardcover casebook, the second set is for the paperback rights casebook.

Class 1 – 1/22/24

Sedition and Prior Restraint

- Sedition and Prior Restraint (1201-1210) / (645-654)
- The Bad Tendency Test (1210-1211) / (654-655)
- Schenck v. United States (1211-1213) / (655-657)
 - Debs v. United States (1213-1215) / (657-659)
- Abrams v. United States (1216-1219) / (660-663)
- Gitlow v. United States (1219-1224) / (663-668)
- Stromberg v. California (1224-1225) / (668-669)
- Supplement: Chapters 49, 50

Class 2 – 1/29/24

Unprotected Speech

- Chaplinsky v. New Hampshire (1225-1227) (669-671)
- Brandenburg v. Ohio (1227-1231) (671-675)
- United States v. O'Brien (1231-1235) / (675-679)
- Texas v. Johnson (1235-1241) / (679-685)
- R.A.V. v. City of St. Paul (1241-1246) / (685-690)
- Supplement: Chapter 51

Class 3 – 2/5/24

Does Money Equal Speech?

- Buckley v. Valeo (1246-1248) (690-692)
- McConnell v. FEC (1249-1251) (693-695)
- Citizens United v. FEC (1252-1271) / (695-715)
- Supplement: Chapter 52

Class 4 – 2/12/24

Time Place & Manner Regulations

- Ward v. Rock Against Racism (1271-1275) (715-719)

Does the First Amendment protect tortious speech?

- New York Times Co. v. Sullivan (1275-1282) / (719-726)
- Snyder v. Phelps (1287-1297) / (731-740)
- Supplement: Chapter 53

Class 5 – 2/19/24

Freedom of the Press

- Branzburg v. Hayes (1297-1301) / (741-745)
- Cohen v. Cowles Media Co. (1301-1304) / (745-748)
- Red Lion v. FCC (1304-1310) / (748-754)
- Miami Herald v. Tornillo (1310-1313) / (755-757)
- Supplemental: Chapter 56 (New York Times v. U.S.)
- *NetChoice v. Moody* - Read [summary of case](#) and [Brief of United States](#) (pp. 10-21)

Class 6 – 2/26/24

“Offensive” Speech I

- U.S. v. Stevens (1328-1337) / (772-781)
- Brown v. EMA (1337-1352) / (781-796)
- Supplement: Chapter 54

“Commercial” Speech

- National Institute of Family and Life Advocates v. Becerra (808-817) / ()

Class 7 – 3/4/24

Freedom of Expression I

- NAACP v. Alabama (1375-1379) / (819-822)
- Buckley v. Valeo (1379-1381) / (823-824)
- McConnell v. FEC (Thomas, J., dissenting) (1381-1382) / (825-826)
- Americans for Prosperity Foundation v. Bonta (1382-1398) / (826-842)

SPRING BREAK - 3/11/23

Class 8 – 3/18/24

Freedom of Expression II

- Abood v. Detroit Board of Education (1398-1401) / (842-845)
- Janus v. AFSCME (1401-1412) / (845-856)

Free Speech and Public Accommodations

- 303 Creative v. Elenis ([2023 Supplement](#), 667-686)

Class 9 – 3/25/24

Free Exercise of Religion I

- Reynolds v. United States (1433-1439) / (877-883)
- Sherbert v. Verner (1439-1441) / (883-885)
- Employment Division v. Smith (1442-1446) / (886-890)
- Church of the Lukumi Babalu Aye (1446-1451) / (890-895)
- Congress responds to *Smith* (1479-1480) / (923-924)
- Supplement: Chapter 57

Class 10 – 4/1/24

Free Exercise of Religion II

- Fulton v. City of Philadelphia ([2023 Supplement](#), 749-777)
- Carson v. Makin ([2023 Supplement](#), 778-790)

Class 11 – 4/8/24

Establishment Clause I

- No Law Respecting an Establishment of Religion (1481-1483) / (925-927)
- Lemon v. Kurtzman (1483-1487) / (928-931)
- Town of Greece v. Galloway (1518-1528) (961-971)
- Supplement: Chaptineer 59

Class 12 – 4/15/24

Establishment Clause II

- American Legion v. American Humanist Association (1528-1539) / (971-983)
- Kennedy v. Bremerton School District ([2023 Supplement](#), 791-817)
- Supplement: Chapter 60

Class 13 – Class Canceled (Passover) - 4/22/24

Class 14 – 4/24/24

Final Exam Review Session - ZOOM

5:30

Final Exam - 5/1/2024

Learning Outcomes.

By the end of the course, students should be able to:

- (1) Define accurately the elements of the First Amendment doctrines in the course outline below.
- (2) Apply these doctrines to existing and hypothetical circumstances.
- (3) Construct effective legal arguments for different possible outcomes in such circumstances.
- (4) Evaluate doctrinal and policy arguments in support of such different outcomes.
- (5) Relate First Amendment doctrines to equal protection and due process principles from Con Law.

Students with Disabilities. The Americans with Disabilities Act is federal antidiscrimination legislation providing comprehensive civil rights protection for persons with disabilities. South Texas College of Law is committed to providing a learning environment meeting the needs of all students; and to that end it provides reasonable accommodations to students who have physical, learning, mental, or other disabilities. If you believe you have a disability requiring an accommodation, please contact Assistant Dean Gena Singleton in the Office of Student Academic

Affairs to discuss how your need for support services may be met. Her office is in Room 809, and you may contact her by telephone 713-646-1778 or email gsingleton@stcl.edu. All discussions will remain confidential. Please note that accommodations cannot be provided retroactively. More information regarding the law school's Policy for Accommodating Law Students with Disabilities, including application deadlines, can be found in the Student Handbook.